

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA,)
)
)
)
)
v.)
)
)
JOHNNY REID EDWARDS)
)
)
)

CRIMINAL CASE NO. 1:11-CR-161-1

**JOHN EDWARDS' MOTION IN LIMINE TO BAR THE GOVERNMENT FROM
USING INADMISSIBLE HEARSAY**

John Edwards moves under the Sixth Amendment and Federal Rule of Evidence 802 to bar the government from introducing inadmissible hearsay into evidence during a trial in this case. Specifically, the Mr. Edwards seeks to bar hearsay statements of Rachel Mellon and Fred Baron from being introduced into evidence at trial, as well as any hearsay statements that were not made in furtherance of a conspiracy in which Mr. Edwards is alleged to have participated. The basis for this Motion is that the introduction of such statements violates the Confrontation Clause of the Sixth Amendment and that the statements constitute inadmissible hearsay under Rules 801 and 802.

In the alternative, Mr. Edwards requests that the Court exercise its discretion to hold a pretrial evidentiary hearing to determine (1) the statements that the government seeks to introduce under Rule 801(d)(2)(E); (2) the conspiracy that these statements are claimed to have furthered; (3) the connection of Mr. Edwards to any such conspiracies;

and (4) the relevance of any such conspiracies to the issues in this case. See United States. v. James, 590 F.2d 575 (5th Cir. 1979).

Dated: February 15, 2012.

/s/ James P. Cooney III

James P. Cooney III, N.C. Bar No. 12140
jcooney@wCSR.com
WOMBLE CARLYLE SANDRIDGE & RICE, LLP
One Wells Fargo Center
Suite 3500, 301 South College Street
Charlotte, NC 28202-6037
(704) 331-4980 (phone)
(704) 338-7838 (fax)

/s/ Abbe David Lowell

Abbe David Lowell, *pro hac vice*
ADLowell@Chadbourne.com
Christopher D. Man, *pro hac vice*
CMan@Chadbourne.com
Scott Coyle
SCoyle@Chadbourne.com
Michael Pusateri
MPusateri@Chadbourne.com
CHADBOURNE & PARKE LLP
1200 New Hampshire Ave., NW
Washington, DC 20036
(202) 974-5600 (phone)
(202) 974-5602 (fax)

CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2012, I electronically filed the foregoing **Motion in Limine** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Brian Scott Meyers
U.S. Attorney's Office – EDNC
Terry Sanford Federal Building
310 New Bern Avenue, Suite 800
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Fax: (919) 856-4487
Email: brian.s.meyers@usdoj.gov

David V. Harbach
U.S. Department of Justice
Public Integrity Section
1400 New York Avenue, NW, Suite 1800
Washington, DC 20005
Telephone: (202) 262-7597
Fax: (202) 514-3003
Email: david.harbach@usdoj.gov

Jeffrey E. Tsai
U.S. Department of Justice
Public Integrity Section
1400 New York Avenue, N.W., Suite 1800
Washington, DC 20005
Telephone: (202) 307-0933
Fax: (202) 514-3003
Email: jeffrey.tsai@usdoj.gov

Robert J. Higdon
U.S. Attorney's Office – EDNC
Terry Sanford Federal Building
310 New Bern Avenue, Suite 800
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Fax: (919) 856-4487
Email: bobby.higdon@usdoj.gov

/s/ James P. Cooney III
James P. Cooney III (NCSB # 12140)
WOMBLE CARLYLE SANDRIDGE & RICE, LLP
One Wells Fargo Center
Suite 3500, 301 South College Street
Charlotte, NC 28202
Telephone: (704) 331-4980
Email: jcooney@wcsr.com
Attorney for Defendant